

**Executive Summary – Enforcement Matter – Case No. 50610**  
**Vopak Terminal Deer Park Inc.**  
**RN100225093**  
**Docket No. 2015-0815-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Vopak Terminal Deer Park, 2759 Independence Parkway South, La Porte, Harris County

**Type of Operation:**

Bulk chemical storage facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** December 4, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$27,000

**Amount Deferred for Expedited Settlement:** \$5,400

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$10,800

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$10,800

Name of SEP: Houston-Galveston Area Council-AERCO (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** February 3, 2015

**Date(s) of NOE(s):** May 12, 2015

**Executive Summary – Enforcement Matter – Case No. 50610**  
**Vopak Terminal Deer Park Inc.**  
**RN100225093**  
**Docket No. 2015-0815-AIR-E**

***Violation Information***

Failed to comply with the maximum allowable barge loading rate for acetic acid. Specifically, the Respondent exceeded the barge loading rate of 1,500 barrels per hour ("bbls/hr") at Emission Point Number ("EPN") BD1 for 2.5 hours ("hrs") on April 24, 2014 at a rate of 1,741 bbls/hr, at EPN SD1 for 11.2 hrs on April 1, 2014 at a rate of 1,895 bbls/hr and for 9.3 hrs on September 17, 2014 at a rate of 1,599 bbls/hr, and at EPN SD2 for 5.5 hrs on March 21, 2014 at a rate of 2,100 bbls/hr, for 5.2 hrs on March 30, 2014 at a rate of 2,090 bbls/hr, and for 13.4 hrs on August 10, 2014 at a rate of 1,783 bbls/hr [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 466A, Special Conditions No. 6, Federal Operating Permit No. O1068, Special Terms and Conditions No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By July 17, 2015, the Respondent restricted the associated output capacity of Pump T-929 and Pump T-930 through the reprogramming of the associated variable frequency drivers in order to comply with the permitted loading rate for acetic acid.

**Technical Requirements:**

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Raime Hayes-Falero, Enforcement Division, Enforcement Team 4, MC R-12, (713) 767-3567; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**Respondent:** Chris Robblee, General Manager, Vopak Terminal Deer Park Inc., P.O. Box 897, Deer Park, Texas 77536

William List, Terminal Manager, Vopak Terminal Deer Park Inc., P.O. Box 897, Deer Park, Texas 77536

**Respondent's Attorney:** N/A

**Attachment A**  
**Docket Number: 2015-0815-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Vopak Terminal Deer Park Inc.</b>
<b>Penalty Amount:</b>	<b>Twenty-One Thousand Six Hundred Dollars (\$21,600)</b>
<b>SEP Offset Amount:</b>	<b>Ten Thousand Eight Hundred Dollars (\$10,800)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Houston-Galveston Area Council-AERCO ("AERCO")</b>
<b>Project Name:</b>	<b><i>Clean Vehicles Partnership Project</i></b>
<b>Location of SEP:</b> Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for

Vopak Terminal Deer Park Inc.  
Agreed Order - Attachment A

purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

Vopak Terminal Deer Park Inc.  
Agreed Order - Attachment A

## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

## **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Vopak Terminal Deer Park Inc.  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5.     Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6.     Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7.     Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



## Penalty Calculation Worksheet (PCW)

<b>DATES</b>	<b>Assigned</b>	18-May-2015
	<b>PCW</b>	14-Oct-2015
	<b>Screening</b>	21-May-2015
	<b>EPA Due</b>	

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Vopak Terminal Deer Park Inc.		
<b>Reg. Ent. Ref. No.</b>	RN100225093		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	50610	<b>No. of Violations</b>	1
<b>Docket No.</b>	2015-0815-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Raime Hayes-Falero
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

**Penalty Calculation Section**

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$18,750</b>
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**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>44.0%</b>	Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$8,250</b>
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Notes: Enhancement for one NOV with same or similar violations and two orders with denial of liability. Reduction for one Notice of Intent to conduct an audit.

<b>Culpability</b>	No	<b>0.0%</b>	Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b>	Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$331
Estimated Cost of Compliance	\$5,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$27,000</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	<b>\$27,000</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$27,000</b>
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<b>DEFERRAL</b>	<b>20.0%</b>	Reduction	<b>Adjustment</b>	<b>-\$5,400</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$21,600</b>
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Screening Date 21-May-2015

Docket No. 2015-0815-AIR-E

PCW

Respondent Vopak Terminal Deer Park Inc.

Policy Revision 4 (April 2014)

Case ID No. 50610

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100225093

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 44%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with same or similar violations and two orders with denial of liability.  
Reduction for one Notice of Intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 44%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 44%



Screening Date 21-May-2015

Docket No. 2015-0815-AIR-E

PCW

Respondent Vopak Terminal Deer Park Inc.

Policy Revision 4 (April 2014)

Case ID No. 50610

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100225093

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review Permit No. 466A, Special Conditions No. 6, Federal Operating Permit No. O1068, Special Terms and Conditions No. 16, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the maximum allowable barge loading rate for acetic acid. Specifically, the Respondent exceeded the barge loading rate of 1,500 barrels per hour ("bbls/hr") at Emission Point Number ("EPN") BD1 for 2.5 hours ("hrs") on April 24, 2014 at a rate of 1,741 bbls/hr, at EPN SD1 for 11.2 hrs on April 1, 2014 at a rate of 1,895 bbls/hr and for 9.3 hrs on September 17, 2014 at a rate of 1,599 bbls/hr, and at EPN SD2 for 5.5 hrs on March 21, 2014 at a rate of 2,100 bbls/hr, for 5.2 hrs on March 30, 2014 at a rate of 2,090 bbls/hr, and for 13.4 hrs on August 10, 2014 at a rate of 1,783 bbls/hr.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 5

6 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$18,750

Five quarterly events are recommended for the instances of noncompliance that occurred from March 21, 2014 to September 17, 2014 (one quarterly event for EPN BD1 and two quarterly events each for EPNs SD1 and SD2).

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$18,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$331

Violation Final Penalty Total \$27,000

This violation Final Assessed Penalty (adjusted for limits) \$27,000

## Economic Benefit Worksheet

**Respondent** Vopak Terminal Deer Park Inc.  
**Case ID No.** 50610  
**Reg. Ent. Reference No.** RN100225093  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	21-Mar-2014	17-Jul-2015	1.32	\$331	n/a	\$331

Notes for DELAYED costs

Estimated cost to restrict the associated output capacity of Pump T-929 and Pump T-930 through the reprogramming of the associated variable frequency drivers in order to comply with the permitted loading rate for acetic acid. The Date Required is the first date the violation occurred and the Final Date is the date of compliance.

### Avoided Costs

#### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$331



# Compliance History Report

**PUBLISHED** Compliance History Report for CN601178734, RN100225093, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

<b>Customer, Respondent, or Owner/Operator:</b>	CN601178734, Vopak Terminal Deer Park Inc.	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	8.16
<b>Regulated Entity:</b>	RN100225093, VOPAK TERMINAL DEER PARK	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	8.16
<b>Complexity Points:</b>	32	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	11 - Waste Management (Excluding Landfills)				
<b>Location:</b>	2759 INDEPENDENCE PKWY S LA PORTE, HARRIS COUNTY, TEXAS				
<b>TCEQ Region:</b>	REGION 12 - HOUSTON				

## ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER HG0629I

**AIR NEW SOURCE PERMITS** REGISTRATION 40132

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER HG0629I

**AIR NEW SOURCE PERMITS** AFS NUM 4820100248

**AIR NEW SOURCE PERMITS** REGISTRATION 77383

**AIR NEW SOURCE PERMITS** REGISTRATION 95099

**STORMWATER** PERMIT WQ0001731000

**STORMWATER** PERMIT WQ0002383000

**IHW CORRECTIVE ACTION** SOLID WASTE REGISTRATION # (SWR) 33579

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 33579

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXP490351429

**POLLUTION PREVENTION PLANNING** ID NUMBER P00505

**UNDERGROUND INJECTION CONTROL** PERMIT 5X2600731

**WASTEWATER** PERMIT TXG670216

**AIR OPERATING PERMITS** PERMIT 1068

**AIR NEW SOURCE PERMITS** REGISTRATION 50085

**AIR NEW SOURCE PERMITS** PERMIT 466A

**AIR NEW SOURCE PERMITS** REGISTRATION 77743

**AIR NEW SOURCE PERMITS** REGISTRATION 80015

**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 1010580

**STORMWATER** EPA ID TX0030937

**STORMWATER** EPA ID TX0084115

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXD000807982

**INDUSTRIAL AND HAZARDOUS WASTE** OTS REQUEST 36654

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER HG0629I

**AIR NEW SOURCE PERMITS** REGISTRATION 121921L001

**WASTEWATER** PERMIT TXG670217

<b>Compliance History Period:</b>	September 01, 2009 to August 31, 2014	<b>Rating Year:</b>	2014	<b>Rating Date:</b>	09/01/2014
<b>Date Compliance History Report Prepared:</b>	May 19, 2015				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	May 19, 2010 to May 19, 2015				

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Raime Hayes-Falero

**Phone:** (713) 767-3567

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 06/18/2010 ADMINORDER 2009-1338-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to submit annual compliance certifications and deviation reports within 30 days after the end of the reporting periods.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.144(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 4(A)(ii) OP

Description: Failed to demonstrate that the annual visible emissions observations for stationary vents were conducted by providing records of the annual observations upon request.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(A)  
30 TAC Chapter 101, SubChapter F 101.201(b)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 2F OP

Description: Failed to determine if unauthorized emissions during pilot flame outages and other spills and releases are reportable within 24 hours and create final records within two weeks.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 2F OP

Description: Failed to maintain complete records of non-reportable emissions events.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.562(e)(2)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 4 PERMIT

Special Term and Condition 18 OP  
Special Term and Condition 1A OP  
Special Term and Condition 1D OP

Description: Failed to develop a written operation and maintenance plan that details corrective actions that will be taken when affected air pollution control and monitoring equipment exceed baseline parameters.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.567(j)(3)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 4 PERMIT

Special Term and Condition 18 OP  
Special Term and Condition 1A OP  
Special Term and Condition 1D OP

Description: Failed to submit an annual report of the hazardous air pollutant ("HAP") control efficiency for affected sources.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT BB 61.305(h)  
40 CFR Part 63, Subpart Y 63.567(i)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 3 PERMIT

Special Condition 4 PERMIT  
Special Term and Condition 15D OP  
Special Term and Condition 17G OP  
Special Term and Condition 18 OP

Special Term and Condition 1A OP

Special Term and Condition 1D OP

Description: Failed to maintain records of vapor tightness tests for barges that are loaded and unloaded at the Plant.

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.354(a)  
30 TAC Chapter 117, SubChapter B 117.354(b)  
30 TAC Chapter 117, SubChapter H 117.9020  
5C THSC Chapter 382 382.085(b)

Description: Failed to submit a NOx final control report for the applicable boilers at the Plant.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 14 PERMIT

Special Term and Condition 18 OP

Description: Failed to operate the acetic acid scrubber with a water circulation rate of 11 gallons per minute.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to obtain authorization for Storage Tank Vent Scrubber SCR-926.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.144(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 1A OP

Description: Failed to demonstrate compliance with the visible emissions limits for gas flares by providing flare logs documenting flare observations.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.247(b)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 3 PERMIT

Special Term and Condition 18 OP

Special Term and Condition 1A OP

Description: Failed to submit complete fugitive monitoring reports on a semiannual basis.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT BB 61.305(f)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 3 PERMIT

Special Term and Condition 18 OP

Special Term and Condition 1A OP

Description: Failed to submit quarterly reports of benzene emissions from the benzene transfer operations at the Plant.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(2)(B)  
30 TAC Chapter 106, SubChapter W 106.511  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 19 OP

Description: Failed to demonstrate compliance with the operational restrictions for the diesel powered firewater pump by providing records documenting the hours of operation.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 14 PERMIT

Special Term and Condition 18 OP

Description: Failed to maintain complete records of the acetic acid scrubber water circulation rate.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.121

30 TAC Chapter 122, SubChapter C 122.210(a)

5C THSC Chapter 382 382.085(b)

Description: Failed to include new emission units in Federal Operating Permit No. O-01068.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.136(b)

5C THSC Chapter 382 382.085(b)

Description: Failed to correct or submit relevant facts within 60 days after discovering an error or deficiency in Federal Operating Permit No. O-01068.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.112(d)(2)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 1A OP

Description: Failed to meet the control requirements for storage of VOCs for Tanks Nos. 613, 764, 907, 790, 520, and 915 by January 1, 2009.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.144(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 16F PERMIT

Special Term and Condition 18 OP

Description: Failed to demonstrate compliance with the VOC emission limits by providing monthly records of the calculated VOCs emissions from all storage tanks and loading operations.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 29 PERMIT

Special Term and Condition 18 OP

Description: Failed to maintain complete records of each tank roof landing.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions during Incident No. 125311.

2

Effective Date: 08/26/2013 ADMINORDER 2013-0344-IWD-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(17)

30 TAC Chapter 319, SubChapter A 319.7(d)

Rqmt Prov: Mon. & Rep. Reqs. No. 1 PERMIT

Description: Failed to timely submit the DMRs for the monitoring periods ending February 29, 2012 for Outfall Nos. 001 and 002; April 30, 2012 for Outfall Nos. 001 and 003; May 31, 2012 for Outfall Nos. 001, 002, and 003; June 30, 2012 for Outfall Nos. 001 and 002; July 31, 2012 for Outfall No. 001; and September 30, 2012 for Outfall Nos. 001, 002, and 003, by the 20th day of the following month.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(17)

30 TAC Chapter 319, SubChapter A 319.1

Rqmt Prov: Mon. & Rep. Reqs. No. 1 PERMIT

Description: Failure to submit complete DMRs for the monitoring periods ending January 31, 2012 for Outfall No. 001; March 31, 2012 for Outfall Nos. 001, 002, and 003; and April 30, 2012 for Outfall No. 002, by the 20th day of the following month.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	May 20, 2010	(834148)
Item 2	June 21, 2010	(847272)
Item 3	July 20, 2010	(861719)
Item 4	July 28, 2010	(842907)
Item 5	August 20, 2010	(868110)
Item 6	September 16, 2010	(875038)
Item 7	October 18, 2010	(882647)
Item 8	November 05, 2010	(850331)
Item 9	November 18, 2010	(889064)
Item 10	December 20, 2010	(897438)
Item 11	December 29, 2010	(885667)
Item 12	January 20, 2011	(903324)
Item 13	February 16, 2011	(910245)
Item 14	February 24, 2011	(877977)
Item 15	March 18, 2011	(917459)
Item 16	April 28, 2011	(928423)
Item 17	May 20, 2011	(939152)
Item 18	June 20, 2011	(946569)
Item 19	July 20, 2011	(953819)
Item 20	August 18, 2011	(960424)
Item 21	September 20, 2011	(966483)
Item 22	October 20, 2011	(972494)
Item 23	November 20, 2011	(978639)
Item 24	December 22, 2011	(985463)
Item 25	January 20, 2012	(991749)
Item 26	January 25, 2012	(940972)
Item 27	February 21, 2012	(999094)
Item 28	April 11, 2012	(1004621)
Item 29	April 27, 2012	(1011199)
Item 30	May 18, 2012	(1017554)
Item 31	June 20, 2012	(1025351)
Item 32	July 20, 2012	(1032691)
Item 33	August 21, 2012	(1039117)
Item 34	September 24, 2012	(1048068)
Item 35	December 14, 2012	(1045789)
Item 36	December 20, 2012	(1066761)
Item 37	January 09, 2013	(1066760)
Item 38	January 27, 2013	(1081442)
Item 39	January 28, 2013	(1066759)
Item 40	February 20, 2013	(1081441)
Item 41	March 19, 2013	(1090509)
Item 42	May 15, 2013	(1107825)
Item 43	June 11, 2013	(1111457)
Item 44	July 09, 2013	(1118358)
Item 45	August 08, 2013	(1238032)
Item 46	August 12, 2013	(1126148)
Item 47	September 09, 2013	(1130702)
Item 48	October 07, 2013	(1238036)
Item 49	October 09, 2013	(1136466)
Item 50	November 06, 2013	(1141850)
Item 51	December 10, 2013	(1148315)
Item 52	January 07, 2014	(1154385)

Item 53	January 08, 2014	(1238042)
Item 54	February 05, 2014	(1161711)
Item 55	March 03, 2014	(1238024)
Item 56	March 06, 2014	(1168335)
Item 57	April 02, 2014	(1238025)
Item 58	April 07, 2014	(1175499)
Item 59	April 09, 2014	(1152256)
Item 60	May 02, 2014	(1181693)
Item 61	June 06, 2014	(1238029)
Item 62	June 09, 2014	(1188590)
Item 63	July 02, 2014	(1200338)
Item 64	August 07, 2014	(1238033)
Item 65	August 08, 2014	(1200339)
Item 66	September 03, 2014	(1206953)
Item 67	September 08, 2014	(1238035)
Item 68	October 06, 2014	(1238037)
Item 69	October 08, 2014	(1213362)
Item 70	November 03, 2014	(1238039)
Item 71	November 05, 2014	(1219617)
Item 72	December 02, 2014	(1238041)
Item 73	December 03, 2014	(1225404)
Item 74	January 06, 2015	(1238043)
Item 75	January 07, 2015	(1232341)
Item 76	February 06, 2015	(1245236)
Item 77	February 09, 2015	(1243417)
Item 78	March 02, 2015	(1249784)

#### E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	05/12/2015	(1211390)	CN601178734
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition (SC) 13 PERMIT Special Term & Condition (ST&C) 16 OP		
	Description:	Failure to control the temperature of Isoprene in storage Tank (T-908) of 65 degrees F. (Category C4)		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC 14 PERMIT ST&C 16 OP		
	Description:	Failure to operate scrubber (AAS-1) within the required pH and circulation rate. (Category B13)		

#### F. Environmental audits:

Notice of Intent Date: 05/21/2010 (826618)  
No DOV Associated

#### G. Type of environmental management systems (EMSs):

N/A

#### H. Voluntary on-site compliance assessment dates:

N/A

#### I. Participation in a voluntary pollution reduction program:

N/A

#### J. Early compliance:

**Published** Compliance History Report for CN601178734, RN100225093, Rating Year 2014 which includes Compliance History (CH) components from May 19, 2010, through May 19, 2015.



N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
VOPAK TERMINAL DEER PARK  
INC.  
RN100225093**

**§ BEFORE THE  
§ TEXAS COMMISSION ON  
§  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2015-0815-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Vopak Terminal Deer Park Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a bulk chemical storage facility at 2759 Independence Parkway South in La Porte, Harris County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 17, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Seven Thousand Dollars (\$27,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand Eight Hundred Dollars

(\$10,800) of the administrative penalty and Five Thousand Four Hundred Dollars (\$5,400) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Ten Thousand Eight Hundred Dollars (\$10,800) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that by July 17, 2015, the Respondent restricted the associated output capacity of Pump T-929 and Pump T-930 through the reprogramming of the associated variable frequency drivers in order to comply with the permitted loading rate for acetic acid.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have failed to comply with the maximum allowable barge loading rate for acetic acid, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 466A, Special Conditions No. 6, Federal Operating Permit No. O1068, Special Terms and Conditions No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 3, 2015. Specifically, the Respondent exceeded the barge loading rate of 1,500 barrels per hour ("bbls/hr") at Emission Point Number ("EPN") BD1 for 2.5 hours ("hrs") on April 24, 2014 at a rate of 1,741 bbls/hr, at EPN SD1 for 11.2 hrs on April 1, 2014 at a rate of 1,895 bbls/hr and for 9.3 hrs on September 17, 2014 at a rate of 1,599 bbls/hr, and at EPN SD2 for 5.5 hrs on March 21, 2014 at a rate of 2,100 bbls/hr, for 5.2 hrs on March 30, 2014 at a rate of 2,090 bbls/hr, and for 13.4 hrs on August 10, 2014 at a rate of 1,783 bbls/hr.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Vopak Terminal Deer Park Inc., Docket No. 2015-0815-AIR-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Ten Thousand Eight Hundred Dollars (\$10,800) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

  
For the Executive Director

11/8/12  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

Oct 16, 2015  
Date

Chris Robblee  
Name (Printed or typed)  
Authorized Representative of  
VOPAK TERMINAL DEER PARK INC.

General Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.





Attachment A

Docket Number: 2015-0815-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Vopak Terminal Deer Park Inc.
Penalty Amount:	Twenty-One Thousand Six Hundred Dollars (\$21,600)
SEP Offset Amount:	Ten Thousand Eight Hundred Dollars (\$10,800)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO ("AERCO")
Project Name:	<i>Clean Vehicles Partnership Project</i>
<u>Location of SEP:</u> Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for

purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

## **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Vopak Terminal Deer Park Inc.  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5.     Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6.     Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7.     Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.